

## Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 EB-07 OES-03 SS-15 AGR-05 LAB-04 HEW-04

HUD-01 DOTE-00 TRSE-00 AID-05 COME-00 NAS-01 NSF-01

OPIC-03 FAA-00 ERDA-05 NSC-05 L-03 CIAE-00 INR-07

NSAE-00 USIA-06 CU-02 /088 W  
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R 180905Z MAR 76

FM AMEMBASSY TEHRAN

TO SECSTATE WASHDC 6117

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E.O.11652: N/A

TAGS: USIRJC, IR

SUBJ: STATUS OF USIRJC TECHNICAL ASSISTANCE TEAMS

1. AS THE DEPARTMENT IS AWARE, WE HAVE HAD CONTINUING PROBLEMS WITH RESPECT TO THE STATUS, RIGHTS AND PRIVILEGES OF FHWA EXPERTS HERE UNDER THE AEGIS OF THE US-IRAN JOINT COMMISSION. WHILE WE HAVE BEEN ABLE TO RESOLVE MOST OF THESE PROBLEMS ON AN AD HOC BASIS AS THEY AROSE, IT IS CLEAR THAT WE HAVE BEEN UNABLE TO ESTABLISH SUCCESSFULLY AN EFFICIENT, SMOOTH-RUNNING SYSTEM WHICH WILL ELIMINATE SIMILAR PROBLEMS IN THE FUTURE. THE CRUX OF THE PROBLEM IS THAT GOI'S INSISTENCE THAT THESE EXPERTS AND OTHERS LIKE THEM THAT MAY COME TO IRAN IN THE FUTURE CANNOT BE CONSIDERED MEMBERS OF THIS MISSION. THIS MEANS THAT THEY ARE TO BE TREATED ACCORDING TO IRAN'S REGULATIONS ON THE PRIVILEGES AND EXCEPTIONS OF FOREIGN EXPERTS APPROVED JULY 1966. THESE REGULATIONS DO NOT PROVIDE CLEARCUT PROCEDURES OR A MECHANISM FOR RESOLVING THE MANY PRACTICAL PROBLEMS FHWA EXPERTS HAVE ENCOUNTERED WITH RESPECT TO WORK PERMITS, RESIDENCE PERMITS, CUSTOMS CLEARANCES, DUTY FREE IMPORTS, AND SO FORTH. DEPARTMENT SHOULD NOTE IN PARTICULAR ARTICLE 2 OF 1966 REGULATIONS WHICH RESERVES THE RIGHT OF INTERPRETING WHICH "APPROPRIATE MEASURES TO LIMITED OFFICIAL USE

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APPLY IN WHOLE OR IN PART THE PRIVILEGES AND EXEMPTIONS

MENTIONED IN THE PRESENT REGULATIONS, IN FAVOR OF THE FOREIGN EXPERTS" TO THE MINISTRY OF FOREIGN AFFAIRS. MIN FOREIGN AFFAIRS IS INTERPRETING 1966 REGULATIONS IN VERY NARROW FRAMEWORK AND THIS RIGHT OF INTERPRETATION IS AT PRESENT OVERRIDING VIEWS OF SPONSORING MIN ECON AFFAIRS/FINANCE OR OF MINISTRIES IMPLEMENTING AGREEMENT SUCH AS MIN ROADS/TRANSPORTATION. FURTHER, THE GOI HAS TAKEN THE POSITION THAT RESOLUTION OF THESE PROBLEMS IS THE RESPONSIBILITY OF THE GOI AGENCY TO WHICH THE EXPERTS ARE ASSIGNED. OUR EXPERIENCE HAS PROVEN, HOWEVER, THAT THE GOI IS NOT ORGANIZED TO PROVIDE THE INTER-MINISTERIAL COORDINATION OR COOPERATION WHICH IS REQUIRED TO SOLVE THESE PROBLEMS. UNFORTUNATELY, IT IS ALSO APPARENT THAT THE MINISTRY OF ROADS IS EITHER UNWILLING OR UNEQUAL TO THE TASK OF ASSUMING FULL RESPONSIBILITY FOR LOGISTICAL AND ADMINISTRATIVE DETAILS RELATING TO THE ESTABLISHMENT AND MAINTENANCE OF A TEAM OF TECHNICAL EXPERTS. THIS RELUCTANCE IS ATTRIBUTABLE IN PART TO INTERNAL HIERARCHICAL PROBLEMS WITHIN THE GOI AND IN PART TO LACK OF RESOURCES IN THE MINISTRY OF ROADS. THUS, EVEN THOUGH FHWA EXPERTS ARE NOT CONSIDERED BY THE GOI TO BE MEMBERS OF THIS MISSION, WE HAVE HELPED THEM OVERCOME THEIR DIFFICULTIES VIS-A-VIS GOI OFFICIALDOM ON AN INFORMAL BASIS. WE HAVE FOUND, HOWEVER, THAT THIS HAS CONSUMED AN INORDINATE AMOUNT OF TIME ON THE PART OF BOTH ADMINISTRATIVE AND SUBSTANTIVE OFFICERS AND HAS REQUIRED THAT WE REPEATEDLY APPROACH VERY SENIOR OFFICIALS IN THE MINISTRIES OF FOREIGN AFFAIRS, ECONOMIC AFFAIRS AND FINANCE, AND ROADS AND TRANSPORTATION.

2. MOST RECENTLY THE DCM RAISED THIS ENTIRE MATTER WITH THE MINISTER OF ECONOMIC AFFAIRS AND FINANCE, WHO IS CO-CHAIRMAN OF THE JOINT COMMISSION. AFTER EXPLAINING IN SOME DETAIL THE NATURE OF THE PROBLEMS INVOLVED, THE DCM INQUIRED WHETHER IT WAS POSSIBLE FOR THE GOI TO REVIEW ITS POSITION AND TO AGREE THAT FOR THE PURPOSES OF STATUS AND RIGHTS JOINT COMMISSION EXPERTS COULD BE CONSIDERED PART OF THE TECHNICAL STAFF OF THE US MISSION. WHILE THE MINISTER CLEARLY APPRECIATED THE NATURE OF THE PRACTICAL PROBLEMS INVOLVED, HE ALSO COMMENTED THAT "IT WAS A TOUGH LIMITED OFFICIAL USE

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NUT TO CRACK." THERE ARE SEVERAL REASONS BEHIND THIS REMARK. FIRST IS PRECEDENT IT WOULD ESTABLISH FOR THIRD COUNTRY EXPERTS WORKING IN IRAN UNDER SIMILAR CIRCUMSTANCES. THERE IS A LARGE AND GROWING NUMBER OF SUCH EXPERTS FROM VARIOUS COUNTRIES, INCLUDING THE SOVIET UNION. THE GOI IS OBVIOUSLY RELUCTANT TO ACQUIESCE TO SWOLLEN OFFICIAL MISSIONS IN IRAN INHABITED BY LARGE NUMBERS OF PEOPLE WHOSE SERVICES ARE BEING PAID FOR BY

THE GOI. SECONDLY, THE GOI SEEMS TO FEEL THAT THE EXTENSION OF SUCH A STATUS TO THESE EXPERTS WOULD REQUIRE LEGISLATION SINCE IT WOULD BE A DEPARTURE FROM THE VIENNA CONVENTION AND IS NOT OTHERWISE PROVIDED FOR IN CURRENT IRANIAN LAW. IT IS EXTREMELY RELUCTANT TO SEEK SUCH LEGISLATION BECAUSE IT IS REMINISCENT OF THE US STATUS OF FORCES CONTROVERSY OF THE EARLY 1960'S WHICH BROUGHT ON RIOTING IN THE STREETS. (COMMENT: AS THE DEPARTMENT KNOWS, WE DO NOT TO THIS DAY HAVE A STATUS OF FORCES AGREEMENT WITH IRAN AND WE DEAL WITH MATTERS WHICH WOULD NORMALLY BE COVERED BY SUCH AN AGREEMENT ON A STRICTLY INFORMAL AD HOC BASIS. SIMILARLY, EVEN THOUGH THE GOI IN FACT PAYS FOR A SUBSTANTIAL PART OF OUR MAAG AND ALL OF THE COSTS OF TAFT PERSONNEL, THEY ARE REGARDED AS MEMBERS OF THE US MISSION. THIS, OF COURSE, ILLUSTRATES THE VERY HIGH VALUE THE GOI PLACES ON OUR MILITARY COOPERATION AND ITS WILLINGNESS TO OVERLOOK LIGALITIES IN THIS CASE. WE DO NOT DETECT, HOWEVER, EQUALLY STRONG SENTIMENTS WITH RESPECT TO CIVILIAN TECHNICAL EXPERTS.)

3. THE THIRD CONSIDERATION THAT MAY HAVE BEEN BEHIND THE MINISTERJS REMARK WAS THE QUESTION OF RECIPROCITY. AS THE DEPARTMENT WILL RECALL,DURING THE NEGOTIATION OF THE US-IRAN TECHNICAL COOPERATION AGREEMENT SIGNED IN WASHINGTON ON MARCH 4, 1975, THIS QUESTION AROSE, WITH THE IRANIANS MAKING THE POINT QUITE VIGOROUSLY THAT THE ELEMENT OF RECIPROCITY MUST APPLY. THUS, THE AGREEMENT DOES NOT SPELL OUT THE STATUS AND PRIVILEGES OF TECHNICAL EXPERTS BUT LEAVES THE MATTER TO BE COVERED IN AGENCY-TO-AGENCY AGREEMENTS CONCLUDED UNDER THE UMBRELLA OF THE TECHNICAL COOPERATION AGREEMENT. THIS APPROACH HAS NOT PROVEN TO BE SATISFACTORY. THE DEPARTMENT WILL RECALL THAT CERTAIN PRIVILEGES INCORPORATED IN THE US DEPARTMENT LIMITED OFFICIAL USE

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OF TRANSPORTATION-GOI MINISTRY OF ROADS AND TRANSPORTATION AGREEMENT WERE STRUCK FROM THE AGREEMENT WHEN IT REACHED THE MINISTRY OF FOREIGN AFFAIRS. EVEN IF THIS HAD NOT OCCURRED, EXPERIENCE HAS DEMONSTRATED THAT SUCH AN AGREEMENT IS A TOTALLY INADEQUATE BASIS FOR DEALING WITH OTHER GOI AGENCIES ABOUT SUCH PROBLEMS AS CUSTOMS CLEARANCES, DUTY FREE PRIVILEGES, ETC. IN THIS CONNECTION, WE WOULD ALSO NOTE THAT THE FHWA EXPERTS CURRENTLY IN IRAN STAND FIRM IN THEIR ASSERTION THAT ALL OF THEIR BRIEFINGS NOT ONLY IMPLIED BUT CONTAINED DIRECT STATEMENTS DEFINING THEIR POSITION AS OFFICIAL MEMBERS OF THE US MISSION. THEY MAINTAIN THAT GRANTING OF OFFICIAL PASS-PORTS WAS US GOVERNMENT CONFIRMATION OF THAT STATUS. WE WOULD URGE THAT DISCUSSIONS WITH OTHER AGENCIES CONCERNING

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INFO OCT-01 ISO-00 EB-07 OES-03 SS-15 AGR-05 LAB-04 HEW-04

DOT-00 TRSE-00 AID-05 COME-00 NAS-01 NSF-01 OPIC-03

FAA-00 ERDA-05 NSC-05 L-03 CIAE-00 INR-07 NSAE-00

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FM AMEMBASSY TEHRAN

TO SECSTATE WASHDC 6118

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TERMS AND CONDITIONS OF EMPLOYMENT FOR TECHNICAL EXPERTS SHOULD BE COUCHED TO INFORM POTENTIAL RECRUITS THAT THE QUESTION OF THEIR STATUS VIS-A-VIS BOTH THE US MISSION AND THE GOI IS BY NO MEANS CLEARLY ESTABLISHED AT THIS TIME SO THAT THERE IS NO QUESTION THAT FUTURE EXPERTS WILL HAVE BEEN MISLED ON THIS VITAL POINT.

4. THERE THUS SEEMS TO BE TWO COURSES OF ACTION OR PROSPECTS BEFORE US. ONE IS TO CONTINUE COPING ON AN AD HOC BASIS WITH THE AFOREDESCRIBED PROBLEMS, WITH THE GOI GOING ALONG INFORMALLY WITH THE EMBASSY REPRESENTING THE EXPERTS' INTERESTS TO VARIOUS GOI OFFICIALS AND PROVIDING EXPERTS WITH RIGHTS SUCH AS ACCESS TO THE COMMISSARY WHICH DO NOT HAVE GOI APPROVAL. THE COSTS OF CONTINUING OF THIS COURSE, HOWEVER, ARE SUBSTANTIAL IN TERMS OF MORALE OF THE EXPERTS THEMSELVES, THE BURDEN ON ADMINISTRATIVE AND SUBSTANTIVE OFFICERS OF THE EMBASSY, AND THE IRRITATION FACTOR VIS-A-VIS GOI OFFICIALS TO WHOM WE MUST REPEATEDLY APPEAL. THE OTHER COURSE OF ACTION IS TO PRESS FOR GOI RECOGNITION OF EXPERTS AS MEMBERS OF THE MISSION WITH STATUS THE SAME AS THE TECHNICAL STAFF OF THE EMBASSY. SHOULD IT BE WILLING TO DO SO, ALL OF THE PROBLEMS WE HAVE ENCOUNTERED UP TO NOW WOULD FALL INTO LIMITED OFFICIAL USE

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PLACE ALBEIT WITH A CONCOMITANT FORMALLY RECOGNIZED SUPPORT BURDEN AND RESPONSIBILITY ON THE EMBASSY. IN ORDER FOR THIS COURSE OF ACTION TO HAVE ANY POSSIBLE HOPE OF SUCCESS, HOWEVER, WE BELIEVE THAT IT IS ESSENTIAL TO ADDRESS THE QUESTION OF RECIPROCITY. IF WE ARE NOT PREPARED TO EXTEND TO IRANIANS, EVEN THEORETICALLY, THE SAME RIGHTS AND PRIVILEGES WE EXPECT EXTENDED TO OUR EXPERTS UNDER SIMILAR CIRCUMSTANCES, THEN IT IS EXTREMELY UNLIKELY THAT WE CAN REACH AGREEMENT WITH THE GOI ON THIS MATTER. FOR EXAMPLE, USDA AND THE MIN AGRICULTURE ARE PLANNING AN EXCHANGE OF IRANIAN STUDENTS TO THE US FOR ON-THE-FARM TRAINING. UNDER RECIPROCITY THESE 100 OR SO STUDENTS COULD AT LEAST THEORETICALLY REQUEST AND EXPECT TO RECEIVE OFFICIAL STATUS.

5. AS TEHRAN 2665 INDICATES, THE TECHNICAL COOPERATION AGREEMENT HAS NOW BEEN RATIFIED BY THE MAJLES AND ITS IMPLEMENTATION AWAITS OUR CONCURRENCE. AS THE FOREGOING ILLUSTRATES, WE BELIEVE IT TO BE AN INEFFECTIVE INSTRUMENT FOR RESOLVING THE PRACTICAL PROBLEMS WE HAVE ENCOUNTERED. THIS, OF COURSE, DOES NOT AUGUR WELL FOR TECHNICAL COOPERATION EXPERTS THAT ARE HERE OR THAT MAY BE DISPATCHED IN THE FUTURE. ACCORDINGLY, WE WOULD APPRECIATE THE DEPARTMENT'S ADVICE AS TO HOW IT WISHES US TO PROCEED.  
HELMS

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